

DISCUSSION DRAFT

NOTE: Changes to the regulation are shown in underline; deletions from the regulation are shown in ~~strikeout~~. "****" indicates sections of regulation not printed are not changed.

POTENTIAL AMENDMENTS TO THE REGULATION FOR THE MANDATORY REPORTING OF GREENHOUSE GAS EMISSIONS

Article 2: Mandatory Greenhouse Gas Emissions Reporting

Subarticle 1. General Requirements for Greenhouse Gas Reporting

§ 95100. Purpose and Scope.

- (c) *U.S. EPA GHG Reporting Rule.* This article incorporates various provisions of title 40, Code of Federal Regulations (CFR), Part 98. These provisions are a portion of the U.S. Environmental Protection Agency (U.S. EPA) Final Rule on Mandatory Reporting of Greenhouse Gases. Unless otherwise specified, references in this article to 40 CFR Part 98 are to those requirements promulgated by U.S. EPA and published in the Federal Register on October 30, 2009, July 12, 2010, September 22, 2010, October 28, 2010, November 30, 2010, December 17, 2010, and April 25, 2011.

§ 95101. Applicability.

(a) General Applicability.

- (1) This article applies to the following entities:

- (A) Operators of facilities located in California with source categories listed below are subject to this article regardless of emissions level: categories included in Tables A-3 or A-4 of 40 CFR Part 98, and operators of facilities with emissions from stationary fuel combustion or geothermal electricity generation, subject to the limitations of this section:

1. Electricity generation units that report CO₂ mass emissions year round through 40 CFR part 75~~Facilities with source categories in Table A-3 are subject to this article regardless of emissions level.;~~
2. Cement production~~Facilities with source categories in Table A-4 are subject to this article when stationary combustion emissions equal or exceed 10,000 metric tons CO₂e for 2012 or a later calendar year.;~~
3. Lime manufacturing~~Facilities with source categories in Table A-4 are also subject to this article when emissions from all applicable source~~

DISCUSSION DRAFT

~~categories in paragraph (b) of this section equal or exceed 25,000 metric tons CO₂e, for 2011 or a later calendar year.;~~

- ~~4. Nitric acid production;~~
- ~~5. Petroleum refineries;~~
- ~~6. Geologic sequestration of carbon dioxide;~~
- ~~7. Injection of carbon dioxide.~~

~~(B) Operators of facilities located in California with source categories listed below, are subject to this article when stationary combustion and process emissions equal or exceed 10,000 metric tons CO₂e for a calendar year:~~

- ~~1. Stationary fuel combustion, including flaring emissions from municipal solid waste landfills;~~
- ~~2. Glass production;~~
- ~~3. Hydrogen production;~~
- ~~4. Iron and steel production;~~
- ~~5. Pulp and paper manufacturing;~~
- ~~6. Petroleum and natural gas systems;~~
- ~~7. Geothermal electricity generation.~~

~~(B) Suppliers of fuels provided for consumption within California that are specified below in subsection (c);~~

~~(D) Carbon dioxide suppliers as specified below in subsection (c), including CO₂ producers regardless of quantity produced, and CO₂ importers and exporters when bulk imports or exports equal or exceed 10,000 metric tons for 2011 or a later calendar year;~~

~~(E) Electric power entities as specified below in subsection (d); and,~~

~~(F) Operators of petroleum and natural gas systems as specified below in subsection (e).~~

(b) *Calculating GHG Emissions Relative to Thresholds.*

- (2) For the purpose of computing emissions relative to the 10,000 metric ton CO₂e threshold for reporting applicability, operators must include emissions of CO₂, CH₄ and N₂O from stationary combustion sources and process emissions, but may exclude ~~process~~, vented, and fugitive emissions from the estimate.;

(e) *Petroleum and Natural Gas Systems.* The facility types listed below, as further specified in section 95150, are required to report under this article when their stationary combustion and process emissions equal or exceed 10,000 metric tons of CO₂e, or their stationary combustion, process, and vented emissions equal or exceed 25,000 metric tons of CO₂e.

DISCUSSION DRAFT

- (2) Onshore petroleum and natural gas production facilities, ~~as defined in section 95102;~~

- (h) *Cessation of Reporting.* ~~Except as otherwise specified below, a~~ facility operator or supplier whose emissions fall below the applicable emissions reporting thresholds of this article and who wishes to cease annual reporting must comply with ~~40 CFR §98.2(i)~~ the requirements specified in this paragraph. The operator or supplier must provide the letter notifications specified below in 40 CFR §98.2(i) to the address indicated in section 95103 of this article. ~~For purposes of this article:~~

- (1) ~~Wherever 40 CFR §98.2(i)(1) states “25,000 metric tons of CO₂e per year,” the phrase “10,000 metric tons of CO₂e per year” shall be substituted, and reporting shall be required for three years rather than five years.~~ Except as provided in this paragraph, once a facility or supplier is subject to the requirements of this article, the owner or operator must continue for each year thereafter to comply with all requirements of this article, including the requirement to submit annual GHG reports, even if the facility or supplier does not meet the applicability requirements in paragraph (a) of this section in a future year. For facilities with source categories in section 95101(a)(1)(A) that are subject to the requirements of this article regardless of emissions level, cessation of reporting provisions in paragraph 95101(h)(1) apply, but the 2011 data year is the earliest year that criteria for cessation can be applied.

If reported emissions are less than 10,000 metric tons of CO₂e per year for three consecutive years, then the owner, operator, or supplier may discontinue complying with this article provided that the owner, operator, or supplier submits a notification to ARB that announces the cessation of reporting and explains the reasons for the reduction in emissions. The notification must be submitted no later than March 31 of the year immediately following the third consecutive year of emissions less than 10,000 metric tons of CO₂e per year. The owner, operator, or supplier must maintain the corresponding records required under section 95103 for each of the three consecutive years and retain such records for three years following the year that reporting was discontinued. The owner, operator, or supplier must resume reporting if annual emissions in any future calendar year increase to 10,000 metric tons of CO₂e per year or more.

- (2) ~~In cases of permanent shutdown as specified in 40 CFR §98.2(i)(3), a reporter must submit an emissions data report for the year in which a facility or supplier’s GHG-emitting processes and operations ceased to operate, and for the first full year of non-operation that follows.~~ If the operations of a facility or supplier are changed such that all applicable GHG-emitting processes and operations listed in paragraph (a)(1) of this section cease to operate or are permanently shut down, the owner, operator, or supplier must submit an emissions data report for the year in which a facility or supplier’s GHG-emitting

DISCUSSION DRAFT

processes and operations ceased to operate, and for the first full year of non-operation that follows. The owner, operator, or supplier must submit a notification to ARB that announces the cessation of reporting and certifies to the closure of all GHG-emitting processes and operations no later than March 31 of the year following such changes. This paragraph (h)(2) does not apply to seasonal or other temporary cessation of operations. The owner, operator, or supplier must resume reporting for any future calendar year during which any of the GHG-emitting processes or operations resume operation and are subject to reporting pursuant to section 95101(a)(1).

- (4) Electric power entities must comply with the following requirements for cessation of reporting:
- (A) Electric power entities that import or export electricity in 2011 or 2012 must continue to submit, certify, and verify an emissions data report through the 2014 data year, the end of the first compliance period. If an electric power entity has zero imports or exports, it must indicate as such in its emissions data report.
 - (B) Electric power entities that import or export electricity in any year of a subsequent compliance period must continue to submit, certify, and verify an emissions data report through the end of the same compliance period. If an electric power entity has zero imports or exports, it must indicate as such in its emissions data report.
 - (C) Electric power entities no longer importing or exporting electricity at the beginning of a subsequent compliance period are not required to submit, certify, and verify an emissions data report demonstrating that they have no imports or exports pursuant to this article, but must notify the Executive Officer in writing of the reason(s) for cessation of reporting.
 - (D) Electric power entities who meet the definition of "retail provider" must always report retail sales for each calendar year. WAPA and DWR must always report pump loads for each calendar year.
 - (E) Electric power entities must submit a notification to ARB that announces the cessation of reporting and provides reason(s) for cessation. The notification must be submitted no later than March 31 of the year following the last year that the electric power entity is required to submit an emissions data report.

§ 95102. Definitions.

- (a) For the purposes of this article, the following definitions shall apply:

*** (No changes in definitions 1-8)

- (9) "Air dried ton of paper" means paper with 6% moisture content. "Air dried ton of paper" means paper with 6 percent moisture content.

DISCUSSION DRAFT

*** (No changes in definitions 10-16)

- (17) “Asset-controlling supplier” means any entity that owns or operates electricity generating facilities or serves as an exclusive marketer for certain generating facilities even though it does not own them, and is assigned a supplier-specific identification number and specified source emission factor by ARB for the wholesale electricity procured from its system and imported into California. ~~Bonneville Power Administration (BPA) is recognized by ARB as an asset-controlling supplier.~~

*** (No change in definition 18)

- (19) “Associated gas” or “produced gas” means a natural gas that is produced ~~from gas wells or gas produced~~ in association with the production of crude oil.

*** (No changes in definitions 20-50)

- (XX) “Calcined coke” means petroleum coke purified to a dry, pure form of carbon suitable for use as anode and other non-fuel applications.

*** (No changes in definitions 51-70)

- (71) “Carbon dioxide weighted tonne” or CO₂ weighted tonne” or “CWT” means a metric created to evaluate the greenhouse gas efficiency of petroleum refineries and related processes, stated in units of metric tons. The CWT value for an individual refinery is calculated using actual refinery throughput to specified process units and emission factors for these process units. The emission factor is denoted as the CWT factor and is representative of the greenhouse gas emission intensity at an average level of energy efficiency, for the same standard fuel type for each process unit for production, and for average process emissions of the process units across a sample of refineries. Each CWT factor is expressed as a value weighted relative to crude distillation.

*** (No changes in definitions 72 & 73)

- (74) “Cogeneration” means an integrated system that produces electric energy and useful thermal energy for industrial, commercial, or heating and cooling purposes, through the sequential or simultaneous use of the original fuel energy. Cogeneration must involve generation of electricity and useful thermal energy and some form of waste heat recovery. Some examples of cogeneration include: (a) a gas turbine or reciprocating engine generating electricity by combusting fuel, which then uses a heat recovery unit to capture useful heat from the exhaust stream of the turbine or engine; (b) Steam turbines generating electricity as a byproduct of

DISCUSSION DRAFT

steam generation through a fired boiler; (c) Cogeneration systems in which the fuel input is first applied to a thermal process such as a furnace and at least some of the heat rejected from the process is then used for power production. For the purposes of this article, a combined-cycle power generation unit, where ~~all of the generated steam is used for electricity generation~~ none of the generated thermal energy is used for industrial, commercial, or heating and cooling purposes (these purposes exclude any thermal energy utilization that is either in support of or a part of the electricity generation system), is not considered a cogeneration unit.

*** (No changes in definitions 75-96)

- (xx) “Covered product data” means all product data included in the allocation of allowances under sections 95870, 95890 and 95891 of the cap-and-trade regulation, regardless of whether the cap-and-trade regulation imposes a compliance obligation for the data year.

*** (No changes in definitions 95-102)

- (103) “Delayed coking” means a process by which heavier crude oil fractions are thermally decomposed under conditions of elevated temperature and pressure to produce a mixture of lighter oils and petroleum coke.

*** (No changes in definitions 104-127)

- (128) “Emissions data verification statement” means the final statement rendered by a verification body attesting whether a reporting entity’s covered emissions data in their emissions data report is free of material misstatement, and whether the emissions data conforms to the requirements of this article.

*** (No changes in definitions 129-132)

- (133) “Enterer” means an entity that imports into California motor vehicle fuel, diesel fuel, fuel ethanol, biodiesel, non-exempt biomass-derived fuel or renewable fuel and who is the importer of record under federal customs law or the owner of fuel upon import into California if the fuel is not subject to federal customs law. Only enterers that import the specified fuels outside the bulk transfer/terminal system are subject to reporting under the regulation.

*** (No changes definitions 134-147)

- (XXX) “Field accuracy test” means an in-situ test, or check, intended to confirm that a flow meter or other mass or volume measurement device is operating within an acceptable accuracy range. A field accuracy test

DISCUSSION DRAFT

should be done in a manner that does not interrupt operations or require removal of the meter. The selected method for field accuracy testing will vary based on meter type and piping system design, and may be performed by a 3rd party meter servicing firm or the original equipment manufacturer.

*** (No changes in definitions 148-153)

~~(XXX)~~ “Flow meter” means a measurement device consisting of one or more individual components that is designed to measure the bulk fluid movement of liquid or gas through a piped system at a designated point. Bulk fluid movement can be measured with a variety of devices in units of mass flow or volume.

*** (No changes in definitions 154-220)

(221) “Lead verifier independent reviewer” or “independent reviewer” means a lead verifier within a verification body who has not participated in conducting verification services for a reporting entity, offset project developer, or authorized project designee for the current reporting year who provides an independent review of verification services rendered to the reporting entity as required in section 95131. The independent reviewer is not required to also meet the requirements for a sector specific verifier.

*** (No changes in definitions 222 & 223)

~~(224) “Liquefied hydrogen” means hydrogen in a liquid state.~~

*** (No changes in definitions 225 & 226)

~~(XXX) “Liquid Hydrogen” means hydrogen in a liquid state.~~

*** (No changes in definitions 227-234)

(235) “Material misstatement” means any discrepancy, omission, or misreporting, or aggregation of the three, identified in the course of verification services that leads a verification team to believe that- the total reported ~~GHG covered~~ emissions (metric tons of CO₂e) or ~~a total reported single covered product data component~~ contains errors greater than 5%, as applicable, in an emissions data report-. Material misstatement is calculated separately, ~~for each type of data~~ as specified in section 95131(b)(12)(A).

*** (No changes in definitions 236-295)

~~(XX)~~ “Oil and gas systems specialist” means a verifier accredited to meet the requirements of 95131(a)(2) for providing verification services to operators

DISCUSSION DRAFT

petroleum refineries, hydrogen production units or facilities, and petroleum and natural gas systems listed in section 95101(e).

- (296) “Position holder” means an entity that holds an inventory position in motor vehicle fuel, ethanol, distillate fuel, biodiesel, or renewable diesel as reflected in the records of the terminal operator or a terminal operator that owns motor vehicle fuel or diesel fuel in its terminal. “Position holder” does not include inventory held outside of a terminal, fuel jobbers (unless directly holding inventory at the terminal), retail establishments, or other fuel suppliers not holding inventory at a fuel terminal.
- (297) “Positive emissions data verification statement” means a verification statement rendered by a verification body attesting that the verification body can say with reasonable assurance that the covered emissions data in the submitted emissions data report is free of material misstatement and that the emissions data conforms to the requirements of this article.
- (298) “Positive product data verification statement” means a verification statement rendered by a verification body attesting that the verification body can say with reasonable assurance that the covered product data in the submitted emissions data report is free of material misstatement and that the product data conforms to the requirements of this article.

*** (No changes definitions 299-302)

- (303) “Primary refinery products” means aviation gasoline, motor gasoline (finished), kerosene-type jet fuel, distillate fuel oil, renewable liquid fuels, and-asphalt. For the purpose of calculating this value for each refinery ARB will convert blendstocks into their finished fuel volumes by multiplying blendstocks by an assumed blending ratio.

*** (No changes in definitions 304-307)

- (XX) “Process emissions specialist” means a verifier accredited to meet the requirements of 95131(a)(2) for providing verification services to operators of facilities engaged in cement production, glass production, lime manufacturing, pulp and paper manufacturing, iron and steel production, and nitric acid production.

*** (No changes in definitions (308-311)

- (312) “Product data verification statement” means the final statement rendered by a verification body attesting whether a reporting entity’s covered product data in their emissions data report is free of material misstatement, and whether the product data conforms to the requirements of this article.

*** (No changes in definitions 313-325)

DISCUSSION DRAFT

- (326) “Qualified positive emissions data verification statement” means a statement rendered by a verification body attesting that the verification body can say with reasonable assurance that the covered emissions data in the submitted emissions data report is free of material misstatement and is in conformance with section 95131(b)(9), but the emissions data may include one or more other nonconformances with the requirements of this article which do not result in a material misstatement.
- (327) “Qualified positive product data verification statement” means a statement rendered by a verification body attesting that the verification body can say with reasonable assurance that the covered product data in the submitted emissions data report is free of material misstatement and is in conformance with section 95131(b)(9), but the product data may include one or more other nonconformance(s) with the requirements of this article which do not result in a material misstatement.
- (328) “Qualified positive verification statement” means a statement rendered by a verification body attesting that the verification body can say with reasonable assurance that the submitted emissions data report is free of material misstatement and is in conformance with section 95131(b)(9), but the emissions data report may include one or more other nonconformance(s) with the requirements of this article which do not result in a material misstatement. This definition applies to the qualified positive emissions data verification statement and the qualified positive product data verification statement.

*** (No Changes in definitions 329-353)

- (XX) “Sector specific verifier” means a verifier accredited pursuant to 95132(b)(5)(A) as one or more of the following types of specialists defined pursuant to this section: a transactions specialist, an oil and gas systems specialist, or a process emissions specialist. for providing verification services to the operator of a facility engaged in cement production, glass production, lime manufacturing, pulp and paper manufacturing, iron and steel production, or nitric acid production.

*** (No changes in definitions 354-357)

- ~~(358) “Single product data component” means each individual annual product data item that is required to be reported pursuant to the product data requirements of this article.~~
- (359) "Soda ash equivalent" means the total mass of all soda ash, biocarb, borax, V-Bor, DECA, PYROBOR, Boric Acid, Sodium Sulfate, Potassium Sulfate, ~~Potassium Chloride, and Sodium Chloride~~ produced.

*** (No changes in definitions 360-369)

DISCUSSION DRAFT

(XXX) “Steam generator” means equipment that produces steam using an external heat source.

*** (No changes definitions 370-391)

(XX) “Transactions specialist” means a verifier accredited to meet the requirements of 95131(a)(2) for providing verification services to electric power entities; suppliers of petroleum products and biofuels; suppliers of natural gas, natural gas liquids, and liquefied petroleum gas; and suppliers of carbon dioxide.

*** (No changes in definitions 392-419)

§ 95103. Greenhouse Gas Reporting Requirements.

(a) *Abbreviated Reporting for Facilities with Emissions Below 25,000 Metric Tons of CO₂e.*

(3) Total facility GHG process emissions aggregated for all process emissions sources and calculated according to the requirements in the following sections, expressed in metric tons of total CO₂, CO₂ from biomass-derived fuels, CH₄, and N₂O, as applicable:

(A) 40 CFR §98.143 glass production;

(B) 40 CFR §98.163 hydrogen production;

(C) 40 CFR §98.173 iron and steel production;

(D) 40 CFR §98.273 pulp and paper manufacturing;

(E) Subarticle 5 of this article for petroleum and natural gas systems.

~~(43)~~ Identification of the methods chosen for determining emissions.

~~(54)~~ Any facility operating data or process information used for the GHG emission calculations, including fuel use by fuel type, reported in million standard cubic feet for gaseous fuels, gallons for liquid fuels, short tons for solid fuels, and bone-dry short tons for biomass-derived solid fuels. If applicable, include high heat values and carbon content values used to calculate emissions. Missing fuel use or fuel characteristics data must be substituted according to the requirements of 40 CFR §98.35.

~~(65)~~ For facilities with on-site electricity generation or cogeneration, the applicable information specified in section 95112(a)-(b) of this article. Geothermal facilities must also report the information specified in section 95112(e).

~~(76)~~ A signed and dated certification statement provided by the designated representative of the owner or operator, according to the requirements of 40 CFR §98.4(e)(1).

DISCUSSION DRAFT

- (87) Abbreviated emissions data reports submitted under this provision must be certified as complete and accurate no later than June 1 of each calendar year. This requirement begins in 2012 for facilities that were required to report GHG emissions to ARB in 2011, and begins in 2013 for facilities not previously reporting to ARB.
- (98) Subsequent revisions according to the requirements of 40 CFR §98.3(h) must be submitted only if cumulative errors are found to exceed 5 percent of total CO₂e emissions, or if error correction would cause the emissions total to exceed 25,000 metric tons of CO₂e, in which case a report that meets the full requirements of this article must be submitted within ninety days of discovery.
- (109) For abbreviated reports submitted under this provision, records must be kept according to the requirements of 40 CFR §98.3(g), except that a written GHG Monitoring Plan is not required.
- (110) An abbreviated emissions data report is not subject to the third-party verification requirements of this article.

- (f) *Verification Requirement and Deadlines.* The requirements of this paragraph apply to each reporting entity submitting an emissions data report for the previous calendar year that indicates emissions equaled or exceeded 25,000 metric tons of CO₂e, including CO₂ from biomass-derived fuels and geothermal sources, or each reporting entity that has or has had a compliance obligation under the cap-and-trade regulation in any year of the current compliance period. Geothermal sources and reporting entities that do not meet these criteria are not required to undergo verification. The reporting entity subject to verification must obtain third-party verification services for that report from a verification body that meets the requirements specified in Subarticle 4 of this article. Such services must be completed and separate verification statements for emissions data and for product data, as applicable, must be submitted by the verification body to the Executive Officer by September 1 each year. Each reporting entity must ensure that these verification statements are submitted by this deadline. Contracting with a verification body without providing sufficient time to complete the verification statements by the applicable deadline will not excuse the reporting entity from this responsibility. These requirements are additional to the requirements in 40 CFR §98.3(f).

- (j) *Calculating, Reporting, and Verifying Emissions from Biomass-Derived Fuels.*

- (2) When reporting the use of forest derived wood and wood waste-as identified in section 95852.2(a)(4) of the cap-and-trade regulation and harvested pursuant to any section of the California Forest Practice Rules Title 14, California Code of Regulations, Chapters 4, 4.5 and 10 of the Federal National Environmental Policy Act, the reporting entity must report: the bone-dry mass received; and information about the supplier, including the name, physical address, mailing address, contact person with phone

DISCUSSION DRAFT

number and e-mail address, and corresponding identification number under which the wood was removed. The reporting requirements in this subparagraph 95103(j)(2) is optional for forest derived wood and wood waste that was not originally harvested for energy. Examples may include residues from sawmill and pulp and paper manufacturing.

- (k) *Measurement Accuracy Requirement.* The operator or supplier subject to the requirements of 40 CFR §98.3(i) must meet those requirements, except as otherwise specified in this paragraph. In addition, the operator or supplier with covered emissions equal to or exceeding 25,000 metric tons of CO₂e or a compliance obligation under the cap-and-trade regulation in any year of the current compliance period must meet the requirements of paragraphs (k)(1)-(10) below for calibration and measurement device accuracy. Inventory measurement, stock measurement, or tank drop measurement methods are subject to paragraph (11) below. The requirements of paragraphs (k)(1)-(10) apply to fuel consumption monitoring devices, feedstock consumption monitoring devices, process stream flow monitoring devices, steam flow devices, product data measuring devices, mass and fluid flow meters, weigh scales, conveyer scales, gas chromatographs, mass spectrometers, calorimeters, and devices for determining density, specific gravity, and molecular weight. Unless otherwise required by 40 CFR §98.3(i), the provisions of this section 95103(k) do not apply to: stationary fuel combustion units that use the methods in 40 CFR §98.33(a)(4) to calculate CO₂ mass emissions; emissions reported as *de minimis* under section 95103(i); and devices that are solely used to measure parameters used to calculate emissions that are not covered emissions or covered product data.
- (1) Except as otherwise provided in section 95103(k)(7) through (9), all ~~monitoring and sampling~~ flow meter and other measurement devices used to provide data for the GHG emissions calculations or product data must be calibrated prior to the year data collection is required to begin using the procedures specified in this section. ~~Each of these~~ A meter or measurement devices consists of a number of individual components. Each meter or measurement device must meet the applicable accuracy specification in section 95103(k)(6), however individual components of a meter are not required to meet the accuracy specifications. The procedures and methods used to quality-assure the data from each measurement device must be documented in the written monitoring plan required by section 95105(c).

DISCUSSION DRAFT

- (2) All flow meters and other measurement devices that provide data used to calculate GHG emissions or product data must be calibrated according to either the manufacturer's recommended procedures or a method specified in an applicable subpart of 40 CFR Part 98. The calibration method(s) used must be documented in the monitoring plan required under section 95105(c), and are subject to verification under this article and review by ARB to ensure that measurements used to calculate GHG emissions or product data have met the accuracy requirements of this section.

- (4) Except as otherwise provided in section 95103(k)(7) through (9), subsequent recalibrations of the flow meter and other measurement devices subject to the requirements of this section must be performed no less frequently than at one of the following time intervals, whichever is shortest:

(E) Immediately upon the device being deemed out of calibration as determined in subparagraph(6).

~~(EF)~~ If the device manufacturer explicitly states in the product documentation that calibration is required at a period exceeding three years, the operator may follow the procedures in subparagraph (9) to obtain Executive Officer approval to relieve the operator from having to comply with provisions (A) and (C) of this subparagraph.

- (6) In addition to the specific calibration and field accuracy test requirements specified below, all flow meter and other measurement devices covered by this section, regardless of type, must be selected, installed, operated, and maintained in a manner to ensure an accuracy within $\pm 5\%$.

(A) Perform all mass and volume measurement device calibration as specified in the original equipment manufacturer's (OEM) documentation. If OEM documentation is unavailable, calibrate as specified in 40 CFR §98.3(i)(2)-(3), except that a minimum of three calibration points must be used spanning the normal operating conditions. When using the three calibration points, one point must be at or near the zero point, one point must be at or near the upscale point, and one point at or near the mid-point of the devices operating range. If OEM documentation does not specify a method or is unavailable, and calibration methods specified in 40 CFR §98.3(i)(2)-(3) are not possible for a particular device, the procedures in section 95109(b) must be followed to obtain approval for an alternative calibration procedure. Additionally:

DISCUSSION DRAFT

1. Pressure differential devices must be inspected at a frequency specified in subparagraph (4) of this section. The inspection must be conducted as described in the appropriate part of ISO 5167-2 (2003), or AGA Report No 3 (2003) Part 2, both of which are incorporated by reference, or a method published by an organization listed in 40 CFR §98.7 applicable to the analysis being conducted. If the plate fails any one of the tests then the meter shall be deemed out of calibration. If OEM guidance for a particular pressure differential device recommends against disassembly and inspection of the device, inspection requirements do not apply. Documentation of OEM guidance must be made available to verifiers and ARB upon request.

- (B) Mass and volume measurement devices must be field tested for accuracy at a minimum of every 12 months between successive calibrations. Devices must be tested using a portable instrument, OEM guidance, or standard industry practice, with the as-found condition recorded to ensure the device is measuring with accuracy within +/-5%. Should a device be found to be operating outside the +/-5% accuracy bounds, the device shall be deemed out of calibration. Records of all field accuracy tests must be preserved pursuant to section 95105 and made available to verifiers and ARB upon request.
- ~~(7) Financial transaction meters are exempted from the calibration requirements of section 95103(k) provided that the supplier and purchaser do not have any common owners and are not owned by subsidiaries or affiliates of the same company. The following are instances of exemptions to specified requirements in section 95103(k):~~
 - (A) For a flow meter or measurement device that has been previously calibrated in accordance with section 95103(k)(1) through (5), an additional calibration is not required by the date specified in section 95103(k)(1) if, as of that date, the previous calibration is still active (i.e., the device is not yet due for recalibration because the time interval between successive calibrations has not elapsed). In this case, the deadline for the successive calibrations of the flow meter or measurement device shall be set according to section 95103(k)(4).
 - (B). Financial transaction meters are exempted from the calibration requirements of section 95103(k) if the supplier and purchaser do not have any common owners and are not owned by subsidiaries or affiliates

DISCUSSION DRAFT

of the same company. Financial transaction meters where the supplier and the purchaser do have common owners or are owned by subsidiaries or affiliates of the same company are exempt from the calibration requirements of section 95103(k) if one of the following is true:

1. The financial transaction meter is also used by other companies that do not share common ownership with the fuel supplier; or
2. The financial transaction meter is sealed with a valid seal from the county sealer of weights and measures or from a county certified designee; or
3. The financial transaction meter is operated by a third party.

(C). Upstream ethanol and additive meters used to ensure proper blendstock percentage for finished gasoline.

- (9) In cases of continuously operating units and processes where calibration or inspection is not possible without operational disruption, the operator must demonstrate by other means to the satisfaction of the Executive Officer that measurements used to calculate GHG emissions and product data still meet the accuracy requirements of section 95103(k)(6). The Executive Officer must approve any postponement of calibration or required recalibration beyond January 1, 2012.

(B) The request must include:

3. The date of the most recent field accuracy test;
4. The results of the most recent field accuracy test, clearly indicating a pass/fail status;
5. The proposed date for the next field accuracy test;
36. The proposed date for calibration, recalibration, or inspection which must be during the time period of the next scheduled shutdown. If the next shutdown will not occur within three years, this must be noted and a new request must be received every three years until the shutdown occurs and the calibration, recalibration or inspection is completed.
47. A description of the meter or other device, including at a minimum:

DISCUSSION DRAFT

- (10) If the results of an initial calibration, ~~or a recalibration,~~ or field accuracy test fail to meet the required accuracy specification, and the emissions or product data estimated using the data provided by the device represent more than 5 percent of total facility emissions or product data on an annual basis, the operator must demonstrate by other means to the satisfaction of the verifier that measurements used to calculate GHG emissions and product data still meet the accuracy requirements of section 95103(k)(6) going back to the last instance of successful field accuracy test or calibration of the device. ~~†~~The verifier shall note at a minimum a nonconformance as part of the emissions data verification statement.
- (11) When using an inventory measurement, stock measurement, or tank drop measurement method to calculate volumes and masses, the method must be accurate to $\pm 5\%$ for the time periods required by this article, including annually for ~~covered single product data components~~. Techniques used to quantify amounts stored at the beginning and end of these time periods are not subject to the calibration requirements of this section. Uncertainties in beginning and end amounts are subject to verifier review for material misstatement under section 95131(b)(12) of this article. If any devices used to measure inputs and outputs do not meet the requirements of paragraphs (1)-(10) above, the verifier must account for this uncertainty when evaluating material misstatements. Reported values must be calculated using the following equations:

- (l) *Reporting and Verifying Product Data.* The reporting entity must separately identify, quantify, and report all product data as specified in sections 95110-95123 and 95156 of this article. It is the responsibility of the reporting entity to obtain verification services for the product data. Product data will be evaluated for conformance and material misstatement independent of GHG emissions data. Covered product data is evaluated for material misstatement, while the remaining reported product data is evaluated for conformance. ~~The operator must not replace data when calculating product data.~~

§ 95105. Recordkeeping Requirements.

- (d) *GHG Inventory Program for Electric Power Entities that Import or Export Electricity.*
- (6) Reference to other independent or internal data management systems and records, including written power contracts and associated verbal or

DISCUSSION DRAFT

electronic records, full or partial ownership, invoices, and settlements data used to document whether reported transactions are specified or unspecified and whether the requirements for adjustments to covered emissions pursuant to sections 95852(b)(4) and 95852(b)(5) of the cap-and-trade regulation are met;

§ 95111. Data Requirements and Calculation Methods for Electric Power Entities.

(a) *General Requirements and Content for GHG Emissions Data Reports for Electricity Importers and Exporters.*

- (2) *Delivered Electricity.* The electric power entity must report imported, exported, and wheeled electricity in MWh disaggregated by first point of receipt or final point of delivery, as applicable, and must also separately report imported and exported electricity from unspecified sources and from each specified source. Substitute electricity defined pursuant to section 95102(a) must be separately reported for each specified source, as applicable. First points of receipt (POR) and final points of delivery (POD) must be reported using the standardized code used in NERC e-Tags, and if available as well as the full name of the POR/POD.

- (5) *Imported Electricity Supplied by Asset-Controlling Suppliers.* The reporting entity must separately report imported electricity supplied by ~~Bonneville Power Administration, an asset-controlling suppliers~~ recognized by ARB. The asset controlling supplier Bonneville Power Administration must be identified on the NERC e-Tags as the PSE at the first point of receipt, regardless of whether the reporting entity and asset controlling supplier are adjacent in the market path. The reporting entity must:

(b) *Calculating GHG Emissions.*

- (3) *Calculating GHG Emissions of Imported Electricity Supplied by Specified Asset-Controlling Suppliers.* ARB will calculate and publish on the ARB Mandatory Reporting website the system emission factor for all Bonneville Power Administration, an asset-controlling suppliers recognized by the ARB. The reporting entity must calculate emissions for electricity supplied using the following equation:

$$\text{CO}_2\text{e} = \text{Annual CO}_2 \text{ equivalent mass emissions from the specified electricity deliveries from } \underline{\text{ARB-recognized Asset-Controlling Suppliers}} \underline{\text{Bonneville Power Administration}} \text{ (MT of CO}_2\text{e)}.$$

DISCUSSION DRAFT

EF_{ACS} = Supplier-specific emission factor published on the ARB Mandatory Reporting website (MT CO₂e/MWh). ARB will assign the emission factors for all Asset-Controlling Suppliers Bonneville Power Administration (BPA) a default system emission factor equal to 20 percent of the default emission factor for unspecified sources, or when available, based on a previously verified GHG report submitted to ARB, beginning in the 2010 data year and meeting the requirements for asset-controlling suppliers.

- (5) Calculation of Covered Emissions. For imported electricity with covered emissions as defined pursuant to section 95102(a), the electric power entity must calculate and report covered emissions pursuant to the equation in section 95852(b)(1)(B) of the cap-and-trade regulation and include the following information:

$CO_{2e\ RPS\ adjust}$ = Sum of CO₂ equivalent mass emissions adjustment is calculated using the following equation for electricity generated by each eligible renewable energy resource located outside the state of California and registered with ARB by the reporting entity pursuant to section 95111(g)(1), but not directly delivered as defined pursuant to section 95102(a). Electricity included in the RPS adjustment must meet the requirements pursuant to section 95852(b)(4) of the cap-and-trade regulation (MT of CO₂e). The RPS Adjustment may only be claimed by Retail Providers where adjustments are used to comply with California RPS requirements.

The reporting of RPS Adjustments shall include information for Cap and Trade accounting purposes, as well as information for GHG inventory reporting. The status of RECs shall be reported as retired or not retired. RECs not retired are assumed to have been banked for future use.

Where:

MWh_{RPS} = Sum of MWh generated by each eligible renewable energy resource located outside of the state of California, procured by the reporting entity, registered with ARB pursuant to section 95111(g)(1), and meeting requirements pursuant to section 95852(b)(4) of the cap-and-trade regulation.

- (c) ~~GHG Emissions Data Report: Additional Requirements for Retail Providers, excluding Multi-jurisdictional Retail Providers.~~ Retail providers must include the following information in the GHG emissions data report for each report year, in addition to the information identified in sections 95111(a)-(b) and (g).

- (1) Retail providers must report California retail sales. A retail providers who is required only to report retail sales may choose not to apply the verification

DISCUSSION DRAFT

requirements specified in section 95103, if the retail provider deems the emissions data report non-confidential.

- (4) Retail providers that report as electricity importers or exporters also must separately report electricity imported from specified and unspecified sources by other electric power entities to serve their load, designating the electricity importer. In addition, all transactions documented by NERC e-Tags where the retail provider is the PSE at the final point of delivery must be reported.
- (d) ~~GHG Emissions Data Report: Additional Requirements for Multi-Jurisdictional Retail Providers.~~ Multi-jurisdictional retail providers that provide electricity into California at the distribution level must include the following information in the GHG emissions data report for each report year, in addition to the information identified in section 95111(a)-(b).

- (e) ~~GHG Emissions Data Report: Additional Requirements for WAPA and DWR.~~

- (f) ~~GHG Emissions Data Report: Additional Requirements for Asset-Controlling Suppliers.~~
Owners or operators of electricity generating facilities or exclusive marketers for certain generating facilities may apply for an Asset-Controlling Supplier designation from ARB. Approved asset-controlling suppliers may request that ARB calculate a supplier-specific emission factor that is representative of the complete portfolio of all resources under its ownership or control.

~~Bonneville Power Administration request that ARB calculate its supplier-specific emission factor based on a previously verified GHG report that meets the requirements for asset-controlling suppliers, instead of a default system emission factor equal to 20 percent of the default emission factor for unspecified sources. An To apply for asset-controlling supplier designation, the applicant that chooses this option must:~~

- (1) Meet the requirements in this article, including reporting pursuant to section 95112 section as applicable for each generating facility or unit in the supplier's fleet, as well as those under written power contract;

- (5) To apply for and maintain ACS status, the entity shall submit a Statement of Eligibility including the following information, annually:
(A) General Business Information including entity name and contact information;
(B) List of Officer Names and Titles;
(C) Statement of eligibility per section 95102(a)(17);
(D) Data requirements per section 95111(b)(3);
(E) List and description of electricity generating facilities under ownership or control;
(F) Authorized Officer Signature under penalty of perjury.

DISCUSSION DRAFT

Asset-controlling suppliers must annually adhere to all reporting and verification requirements of this article, or be removed from asset-controlling supplier designation. Asset0controlling suppliers will also lose their designation if they receive and adverse verification statement, but may reapply in the following year for reinstatement.

- (g) *Requirements for Claims of Specified Sources of Electricity and for Eligible Renewable Energy Resources in the RPS Adjustment.*

Specified Sources. Each reporting entity claiming specified facilities or units for imported or exported electricity must register its anticipated specified sources with ARB pursuant to subsection 95111(g)(1) and by February 1 following each data year to obtain associated emission factors calculated by ARB for use in the June 1 filings. Each reporting entity claiming specified facilities or units for imported or exported electricity must also meet requirements pursuant to subsections 95111(g)(2)-(5) in the emissions data report.

RPS Adjustment.

§ 95112. Electricity Generation and Cogeneration Units.

- (a) *Information About the Electricity Generating Facility.*

- (4) The disposition of generated electricity in MWh, reported at the facility-level, including:

- (B) Generated electricity provided or sold directly to particular end-users (as defined in section 95102). A reportable end-user includes any entity, under the same or different operational control, that is not a part of the facility. Report each end-user's facility name, NAICS code, and ARB ID if applicable;

- (5) The disposition of the thermal energy (MMBtu) generated by the cogeneration unit or bigeneration unit, if applicable, reported at the facility-level including:

- (A) Thermal energy provided or sold to particular end-users (as defined in section 95102). A reportable end-user includes any entity, under the same or different operational control, that is not a part of the facility. Report each end-user's facility name, NAICS code, ARB ID if applicable, and the types of thermal energy product provided. Exclude from this quantity the amount of thermal energy that is vented, radiated, wasted, or discharged before the energy is provided to the end-user;

DISCUSSION DRAFT

- (B) Thermal energy used for supporting power production, but not directly for power production (e.g. steam used to drive a steam turbine generator to generate electricity). This quantity may include ~~ing~~ steam used for power augmentation, NO_x control, sent to a de-aerator, or sent to a cooling tower;

- (b) *Information About Electricity Generating Units.* Notwithstanding any limitations in 40 CFR Parts 75 or 98, the operator of an electricity generating unit must include in the emissions data report the information listed in this paragraph. For aggregation of electricity generating units, the operator must that meet the applicable criteria in 40 CFR §98.36(c)(1)-(4), as modified by section 95115(h). For a cogeneration unit/system, the operator may aggregate all the units that are integrated into a cogeneration system according to 40 CFR §98.36(c)(3), even if there are more than one gas billing meters serving the cogeneration system; or aggregate according to 40 CFR §98.36(c)(1), even if a unit has heat input capacity greater than 250 MMBtu/hr. ~~the operator may elect to report the following information for a group of aggregated units consisting of~~ Aggregation of electricity generating units is limited to only electricity generating units of the same type (e.g., all cogeneration units, all bigeneration units, or all generating units that are neither cogeneration or bigeneration in the grouping), except when 40 CFR 98.36(c)(2) applies to the grouping, in lieu of separately reporting for each single unit. Operators of geothermal facilities, hydrogen fuel cells, and renewable electricity generating units must follow paragraph (e), (f), or (g) of this section, whichever is applicable, instead of paragraph (b) of this section. For bottoming cycle cogeneration units, the operator is not required to report the data specified in section 95112(b)(4)-(6) except for any fuels combusted for supplemental firing as specified in section 95112(b)(7).

- (1) Basic information about the generating unit, including:

- (B) Prime mover technology;

- (3) If the unit is a cogeneration or bigeneration unit, the operator must report the total thermal output (MMBtu), as defined in section 95102, which was generated by the unit. Exclude from this quantity the heat content of returned condensate and makeup water and steam used to drive a steam turbine generator for electricity generation.

- (5) If not already required to be reported under 40 CFR §98.356(b) for Subpart C units and §98.46 for Subpart D units, annual CO₂, CH₄, and N₂O emissions from the unit, expressed in metric tons of each gas.

- (7) For cogeneration systems, report the total heat (MMBtu) from fuel combustion that is input to the cogeneration system, and if where supplemental firing has been applied, indicate the portion of total heat (MMBtu) that is used for supplemental firing. ~~to support electricity generation or industrial output, report~~

DISCUSSION DRAFT

~~the information in Report supplemental firing information pursuant to paragraphs (a)(4)-(6) of this section and indicate the purpose of the supplemental firing.~~

(c) *Emissions from Fuel Combustion.*

- (2) The operator of a Subpart D unit that combusts biogas or that has ~~with contractual deliveries of biomethane or biogas~~ is subject to the requirements in 95131(i) of this article and must follow the procedure in sections 95115(e)(4)-(5) ~~in calculating emissions from biomethane, biogas, and natural gas.~~

§ 95113. Petroleum Refineries.

(l) *Additional Product and Process Data.*

- (1) Finished Products. The operator must report production quantities for the data year of each petroleum product listed in Table C-1 of 40 CFR Part 98, ~~and each additional transportation fuel product listed in Table MM-1 of 40 CFR Part 98 (standard cubic feet for gaseous products, barrels for liquid products, short tons for solid products), and calcined coke (short tons).~~ For calcined coke, specify whether the calciner is integrated with the petroleum refinery operation. Among the products reported, only calcined coke and primary refinery products will be subject to review for material misstatement under the requirements of section 95131(b)(12).
- (2) *Energy Intensity Index.* For refineries that participate in the Solomon Energy Reviews, the operator must report Solomon EII values for the applicable data year. ~~In the 2012 emissions data report the operator must report Solomon EII values for data years 2008, 2009, 2010, and 2011. In subsequent emissions data reports the operator must continue to report the Solomon EII value for the applicable data year.~~

§ 95114. Hydrogen Production.

- (i) *Additional Product Data.* Operators must report the annual mass of hydrogen gas and liquefied liquid hydrogen produced (short metric tons (tonnes)) and specify if the hydrogen plant is an integrated refinery operation.

§ 95115. Stationary Fuel Combustion Sources.

DISCUSSION DRAFT

(e) *Procedures for Biomass CO₂ Determination.*

$$E_{\text{biomass methane}} = E_{\text{natural gas}} \times \text{MMBtu}_{\text{biomethane}} \times 0.001$$
$$E_{\text{natural gas}} = E_{\text{natural gas}} \times (\text{MMBtu}_{\text{annual}} - \text{MMBtu}_{\text{biomethane}}) \times 0.001$$

Where:

~~E_{total} = The total annual CO₂, CH₄ or N₂O emissions from a source, determined using 40 CFR §98.33(a)(3)-(4) methodology or Subpart D of 40 CFR Part 98 (metric tons)~~

- (h) *Aggregation of Units.* Facility operators may elect to aggregate units according to 40 CFR §98.36(c), except as otherwise provided in this paragraph. Facility operators that are reporting under more than one source category in MRR sections 95101(a)(1)(A)-(B) and Tables A-3, A-4, and A-5 of 40 CFR Part 98, with the exception of 40 CFR Part 98 Subpart C, and that elect to follow 40 CFR §98.36(c)(1), (c)(3) or (c)(4), must not aggregate units that belong to different source categories. For the purpose of unit aggregation, units subject to 40 CFR Part 98 Subpart C that are associated with one source category must not be grouped with other Subpart C units associated with another source category, except when 40 CFR §98.36(c)(2) applies. Units subject to section 95112 must use the criteria for aggregation in section 95112(b).

(m) *Additional Product Data*

(5) The operator of a rare earths manufacturing facility must report the quantity of Bastnäsite produced (short tons) in the data year.

- (n) *Flaring of Biogas (captured methane).* Notwithstanding the exclusion of flaring from this source category in 40 CFR §98.30(d)(4), the operator must include emissions of CO₂, CH₄, and N₂O from flaring of biogas (captured methane) in the emissions data report.

§ 95119. Pulp and Paper Manufacturing

- (d) *Additional Product Data.* In addition to the information required by 40 CFR §98.276, the operator must report the annual production (air dried short tons) of recycled boxboard, recycled linerboard, recycled medium and tissue. For tissue,

DISCUSSION DRAFT

the operator must also report a description of the process used to produce tissue, such as through use of an air dryer.

§ 95120. Iron and Steel Production

- (a) *CO₂ from Fossil Fuel Combustion.* When calculating CO₂ emissions from fossil fuel combustion at a stationary combustion unit under 40 CFR §98.172(a), the operator must use a method in 40 CFR §98.33(a)(1) to §98.33(a)(4) as specified by fuel type in section 95115 of this article.

§ 95121. Suppliers of Transportation Fuels.

- (a) *GHGs to Report.*

- (2) Refiners that supply fuel at a rack onsite, and position holders of fossil fuels and biomass-derived fuels and enterers outside the bulk transfer/terminal system of fossil fuels-must report the CO₂, CO₂ from biomass-derived fuels, CH₄, N₂O, and CO₂e emissions that would result from the complete combustion or oxidation of each Blendstock, Distillate Fuel Oil or biomass-derived fuel (Biomass-Based Fuel and Biomass) listed in Table 2 of this section. MM-1 or MM-2 of 40 CFR Part 98, except that However, Distillate Fuel Oil is limited to diesel fuel as defined in this regulation and except reporting is not required for fuel for in which a final destination outside California can be demonstrated. No fuel shall be reported as finished fuel. Fuels must be reported as the individual Blendstock, Distillate Fuel Oil or biomass-derived fuel listed in Table 2 of this section. 40 CFR Part 98 Tables MM-1 and MM-2.

- (b) *Calculating GHG emissions.*

- (1) Refiners, position holders at California terminals, and enterers who bring fuel into California outside the bulk transfer/terminal system must use Equation MM-1 as specified in 40 CFR §98.393(a)(1) to estimate the CO₂ emissions that would result from the complete combustion of the fuel. Emissions must be based on the quantity of fuel removed from the rack (for refiners and position holders), fuel imported and not delivered to the bulk transfer/terminal system (by enterers), and fuel sold to unlicensed entities as specified in section 95121(d)(3) (by refiners). For fuels that are blended, emissions must be reported for each individual Blendstock, Distillate Fuel Oil or biomass-derived fuel listed in Table 2 of this section 40 CFR Part 98 Tables MM-1 and MM-2 separately, and not as motor gasoline (finished), biofuel blends, or other similar finished fuel. Emissions from denatured fuel ethanol must be calculated as 100% ethanol only. The volume of denaturant is assumed to be

DISCUSSION DRAFT

zero and is not required to be reported. Emission factors must be taken from column C of 40 CFR Part 98 Table MM-1 or MM-2 as specified in Calculation Method 1 of 40 CFR §98.393(f)(1). If a position holder in diesel or biodiesel fuel does not have sealed or financial transaction meters at the rack, and the position holder is the sole position holder at the terminal, the position holder must calculate emissions based on the delivering entity's invoiced volume of fuel or a meter that meets the requirements of section 95103(k) either at the rack or at a point prior to the fuel going into the terminal storage tanks.

(d) *Data Reporting Requirements.*

- (1) California position holders must report the annual quantity in barrels, as reported by the terminal operator, of each Blendstock, Distillate Fuel Oil, or biomass-derived fuel listed in Table 2 of this section, ~~Tables MM-1 and MM-2 of 40 CFR Part 98~~ that is delivered across the rack in California, ~~except that distillate fuel oil is limited to diesel fuel and~~ except for fuel for which a final destination outside California can be demonstrated. Denatured fuel ethanol will be reported with the entire volume as 100% ethanol only. The volume of denaturant is assumed to be zero and is not required to be reported.
- (2) California position holders that are also terminal operators and refiners with on-site racks must report the annual quantity in barrels delivered across the rack of each Blendstock, Distillate Fuel Oil, or biomass-derived fuel listed in Table 2 of this section, ~~Tables MM-1 and MM-2 of 40 CFR Part 98~~, ~~except distillate fuel oil is limited to diesel fuel and~~ except for fuel for which a final destination outside California can be demonstrated. Denatured fuel ethanol will be reported with the entire volume as 100% ethanol only. The volume of denaturant is assumed to be zero and is not required to be reported. If there is only a single position holder at the terminal, and only diesel or biodiesel is being dispensed at the rack then the position holder must report the annual quantity of fuel using a meter meeting the requirements of section 95103(k) or billing invoices from the entity delivering fuel to the terminal.
- (3) Refiners that supply fuel within the bulk transfer system to entities not licensed by the California Board of Equalization as a fuel supplier must report the annual quantity in barrels delivered of each Blendstock, Distillate Fuel Oil, or biomass-derived fuel listed in Table 2 of this section, ~~Tables MM-1 and MM-2 of 40 CFR Part 98~~, ~~except Distillate Fuel Oil is limited to diesel fuel and~~ except for fuel for which a final destination outside California can be demonstrated. Denatured fuel ethanol will be reported with the entire volume as 100% ethanol only. The volume of denaturant is assumed to be zero and is not required to be reported.
- (4) Enterers of fossil-derived transportation fuels not directly delivered to the bulk transfer/terminal system must report the annual quantity in barrels, as reported on the bill of lading or other shipping documents of each Blendstock, Distillate Fuel Oil, or biomass-derived fuel listed in Table 2 of this section, ~~Tables MM-1~~

DISCUSSION DRAFT

and MM-2 of 40 CFR Part 98 that is imported into California, except that Distillate Fuel Oil is limited to diesel fuel and except for fuel for which a final destination outside California can be demonstrated. Denatured fuel ethanol will be reported with the entire volume as 100% ethanol only. The volume of denaturant is assumed to be zero and is not required to be reported.

Table 2
Blendstocks, Distillate Fuel Oils, and Biomass-Derived Fuels
Subject to Reporting under Section 95121

<u>CBOB—Summer</u>
<u>Regular</u>
<u>Midgrade</u>
<u>Premium</u>
<u>CBOB—Winter</u>
<u>Regular</u>
<u>Midgrade</u>
<u>Premium</u>
<u>RBOB—Summer</u>
<u>Regular</u>
<u>Midgrade</u>
<u>Premium</u>
<u>RBOB—Winter</u>
<u>Regular</u>
<u>Midgrade</u>
<u>Premium</u>
<u>Distillate Fuel Oils</u>
<u>Distillate No. 1</u>
<u>Distillate No. 2</u>
<u>Liquefied Petroleum Gas (LPG)</u>
<u>Ethane</u>
<u>Ethylene</u>
<u>Propane</u>
<u>Propylene</u>
<u>Butane</u>
<u>Butylene</u>
<u>Isobutane</u>
<u>Isobutylene</u>
<u>Pentanes Plus</u>
<u>Biomass-Derived Fuel</u>

DISCUSSION DRAFT

<u>Ethanol (100%)</u>
<u>Biodiesel (100%, methyl ester)</u>
<u>Rendered Animal Fat</u>
<u>Vegetable Oil</u>

§ 95122. Suppliers of Natural Gas, Natural Gas Liquids, and Liquefied Petroleum Gas, Compressed Natural Gas, and Liquefied Natural Gas.

(a) *GHGs to Report.*

- (3) The California consignee for liquefied petroleum gas, compressed natural gas, or liquefied natural gas ~~will~~ report the CO₂, CH₄, N₂O and CO₂e emissions that would result from the complete combustion or oxidation of the annual quantity of liquefied petroleum gas, compressed natural gas, and liquefied natural gas imported into the state, except for products for which a final destination outside California can be demonstrated.

(b) *Calculating GHG Emissions.*

- (9) The California consignee for liquefied petroleum gas must use calculation methodology 2 described in 40 CFR §98.403(a)(2) for calculating CO₂ emissions except that for liquefied petroleum gas Table MM-1 of 40 CFR Part 98 must be used in place of Table NN-2. For liquefied petroleum gas, ~~t~~The consignee must sum the emissions from the individual components of the ~~liquefied petroleum gas,~~ to calculate the total emissions. If the composition is not supplied by the producer, the consignee must use the default value for liquefied petroleum gas presented in Table C-1 of 40 CFR Part 98. The California consignee for compressed natural gas or liquefied natural gas must use calculation methodology 1 or 2 described in 40 CFR §98.403.
- (10) The California consignee for liquefied petroleum gas, compressed natural gas, or liquefied natural gas must estimate and report CH₄ and N₂O emissions using equation C-8 and Table C-2 as described in 40 CFR §98.33(c)(1).

(d) *Data Reporting Requirements.*

- (2) For the emissions calculation method selected under section 95122(b), local distribution companies must report all the data required by 40 CFR §98.406(b) subject to the following modifications:

DISCUSSION DRAFT

- (D) For each publicly-owned natural gas utility to which a local distribution company delivers natural gas, the local distribution companies must report the annual volumes {in Mscf}, annual energy in {MMBtu}, and the information required in 40 CFR §98.406(b)(12), including EIA number. These requirements are in addition to the requirements of 40 CFR §98.406(b)(6).

- (5) In addition to the information required in 40 CFR §98.3(c), the California consignee for liquefied petroleum gas must report the annual quantity of liquefied petroleum gas imported as the total volume in barrels as well as the volume of its individual components for all components listed in 40 CFR 98 Table MM-1, if supplied by the producer, and report CO₂, CH₄, N₂O, and CO₂e annual mass emissions in metric tons using the calculation methods in section 95122(b). All California consignees of natural gas or natural gas liquids must record the annual quantities imported, in standard cubic feet or barrels, respectively, and report CO₂, CH₄, N₂O, and CO₂e annual mass emissions in metric tons separately for natural gas or natural gas liquids using the calculation methods in section 95122(b).

§ 95123. Suppliers of Carbon Dioxide.

- (b) *Missing Data Substitution Procedures.* The supplier must comply with 40 CFR §98.465425 when substituting for missing data, except for 2013 and later emissions data reports as otherwise provided below.

§ 95131. Requirements for Verification Services.

- (a) *Notice of Verification Services.*

- (2) Documentation that the verification team has the skills required to provide verification services for the reporting facility. This shall include a demonstration that a verification team includes at least one member accredited ~~as a to provide sector specific verifier verification services as a transactions specialist, oil and gas systems specialist, or process emissions specialist, defined pursuant to section 95102(a)~~ when required below:

- (b) Verification services shall include, but are not limited to, the following:

- (3) *Site Visits.* At least one accredited verifier in the verification team, including the sector ~~specialist~~ specific verifier, if applicable, shall at a minimum make one site visit, during each year full verification is required, to each facility for

DISCUSSION DRAFT

which an emissions data report is submitted. The verification team member(s) shall visit the headquarters or other location of central data management when the reporting entity is a retail provider, marketer, or fuel supplier. During the site visit, the verification team member(s) shall conduct the following:

(7) *Sampling Plan.*

(B) The verification team shall include in the sampling plan a ranking of emissions sources by amount of contribution to total CO₂ equivalent emissions for the reporting entity, and a ranking of emissions sources with the largest calculation uncertainty. The verification team shall also include in the sampling plan a ranking of the ~~single-product data components~~ by units specified in the appropriate section of this article and a ranking of the ~~single-product data components~~ with the largest uncertainty. As applicable and deemed appropriate by the verification team, fuel and electricity transactions shall also be ranked or evaluated relative to the amount of fuel or power exchanged and uncertainties that may apply to data provided by the reporting entity.

(9) *Emissions Data Report Modifications.* As a result of data checks by the verification team and prior to completion of a verification statement(s), the reporting entity must make any possible improvements or corrections to the submitted emissions data report, and submit a revised emissions data report to ARB. Failure to do so will result in an adverse verification statement. The reporting entity shall maintain documentation to support any revisions made to the initial emissions data report. Documentation for all emissions data report submittals shall be retained by the reporting entity for ten years pursuant to section 95105.

(10) *Findings.* To verify that the emissions data report is free of material misstatements, the verification team shall make its own determination of emissions for checked sources and product data for checked data and shall determine whether there is reasonable assurance that the emissions data report does not contain a material misstatement in GHG emissions reported for the reporting entity, on a CO₂ equivalent basis and/or a material misstatement in product data for the reporting entity, using the units required by the applicable sections of this article. ~~For product data, a material misstatement on a single product data component, except as otherwise specified in this article, will lead to an adverse product data verification statement.~~ To assess conformance with this article the verification team shall review the methods and factors used to develop the emissions data report for adherence to the requirements of this article and ensure that other requirements of this article are met.

DISCUSSION DRAFT

(12) *Material Misstatement Assessment.* Assessments of material misstatement are conducted independently on total reported covered emissions and total reported ~~single covered~~ product data components (units from the applicable sections of this article).

(A) In assessing whether an emissions data report contains a material misstatement, the verification team must separately determine whether the total reported covered emissions and total reported ~~single covered~~ product data components contain a material misstatement using the following equation:

$$\text{Percent error} = \sum \frac{[\text{Discrepancies} + \text{Omissions} + \text{Misreporting}] \times 100\%}{\text{Total reported covered emissions /or covered product data}}$$

Where:

“Discrepancies” means any differences between the covered emissions/or covered product data and verifier calculated covered emissions/or covered product data for a data source or product data subject to data checks in section 95131(b)(8).

“Omissions” means any covered emissions or covered product data the verifier concludes must be part of the emissions data report, but were not included by the reporting entity in the emissions data report.

“Total reported covered emissions/or covered product data” means the total annual reporting entity covered emissions or total reported ~~single covered~~ product data components for which the verifier is conducting a material misstatement assessment.

(i) *Verifying Biomass-derived Fuels.* In the absence of certification of the biomass-derived fuel by an accredited certifier of biomass-derived fuels, the verification body is subject to the requirements of subarticle 4 of this article as modified below when verifying biomass-derived fuel:

(1) *General biomass-derived fuel verification requirements.*

(C) *Completion of Verification Services for Biomass-derived Fuels.*

3. Reported cCarbon dioxide emissions from biomass-derived fuels ~~are included in the reporting entity's overall~~ will be considered an omission in the evaluation for material misstatement when:
 - a. AnyThe fuel that does not conform with sections 95852.1.1 and 95852.2 of the cap-and-trade regulation and
 - b. it'sThe emissions are not listed as non-exempt biomass-derived CO₂ ~~will be considered an omission when evaluating for~~

DISCUSSION DRAFT

~~material misstatement under section 95131(b)(12)(A) of this article.~~

§ 95132. Accreditation Requirements for Verification Bodies, Lead Verifiers, and Verifiers of Emissions Data Reports and Offset Project Data Reports.

- (b) The Executive Officer may issue accreditation to verification bodies, lead verifiers, and verifiers that meet the requirements specified in this section.

- (5) Sector Specific and Offset Project Specific Verifiers.

- (B) *Offset Project Specific Verifier.* The applicant seeking to be accredited as an offset project specific verifier as specified in section 95977(b)(1)(e)(4)(A)(iii) of the cap-and-trade regulation must, in addition to meeting the requirements for accredited lead verifier or verifier qualification, meet one of the following requirements:

§ 95133. Conflict of Interest Requirements for Verification Bodies.

- (b) The potential for a conflict of interest must be deemed to be high where:

- (1) The verification body and reporting entity share any management staff or board of directors membership, or any of the senior management staff of the reporting entity have been employed by the verification body, or vice versa, within the previous ~~three~~ five years; or
- (2) Within the previous five years, any staff member of the verification body or any related entity has provided to the reporting entity any of the following ~~non-~~ verification services:

- (c) The potential for a conflict of interest shall be deemed to be low where:

- (1) No potential for a high conflict of interest is found ~~under~~ pursuant to section 95133(b) and
- (2) Any services other than verification-related services ~~non-verification services~~ provided by any member of the verification body or verification team to the reporting entity within the last five years are valued at less than 20 percent of the fee for the proposed verification services.

- (e) *Conflict of Interest Submittal Requirements for Accredited Verification Bodies.*

- (1) Before the start of any work related to providing verification services to a reporting entity, a verification body must first be authorized in writing by the Executive Officer to provide verification services. To obtain authorization the

DISCUSSION DRAFT

verification body shall submit to the Executive Officer a self-evaluation of the potential for any conflict of interest that the verification body, related entities ~~its partners~~, or any subcontractors performing verification services may have with the reporting entity for which it will perform verification services. The submittal shall include the following:

- (B) Identification of whether the verification body, related entities, or any member of the verification team has previously provided verification services or verification-related services for the reporting entity or related entities and, if so, provide a description of such services and the years in which such ~~verification~~ services were provided;
- (C) Identification of whether any member of the verification team, verification body, or related entity has engaged in ~~any non-verification~~ services of any nature, other than ARB verification services, with the reporting entity or related entities either within or outside California, during the previous ~~three~~ five years. If ~~non-verification~~ services other than ARB verification services have previously been provided, the following information shall also be submitted:
 - 1. Identification of the nature and location of the work performed for the reporting entity or related entity and whether the work is similar to the type of work to be performed during verification, such as emissions inventory, auditing, energy efficiency, renewable energy, or other work with implications for the reporting entity's greenhouse gas emissions pursuant to this article ~~or the accounting of greenhouse gas emissions or electricity or fuel transactions~~;
 - 2. The nature of past, present or future relationships with the reporting entity or related entities including:
 - a. Instances when any member of the verification team has performed or intends to perform work ~~for the reporting entity~~;
 - b. Identification of whether work is currently being performed ~~for the reporting entity~~, and if so, the nature of the work;
 - c. How much work was performed for the reporting entity in the last ~~three~~ five years, in dollars;
 - e. How much work ~~related to greenhouse gases or electricity transactions~~ the verification team has performed for the reporting entity or related entities in the last ~~three~~ five years, in dollars.

(g) *Monitoring Conflict of Interest Situations.*

- (2) The verification body shall continue to monitor arrangements or relationships that may be present for a period of one year after the completion of verification services. During that period, within 30 days of the verification body or any

DISCUSSION DRAFT

verification team member entering into any contract with the reporting entity or related entity for which the body has provided verification services, the verification body shall notify the Executive Officer of the contract and the nature of the work to be performed, and revenue received. The Executive Officer, within 30 working days, will determine the level of conflict using the criteria in section 95133(a)-(d), if the reporting entity must reverify their emissions data report, and if accreditation revocation is warranted.
